



Proposed National Pollutant Discharge Elimination (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule

November 2011



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Agenda

- Rule Schedule
- Background
- Proposal overview
- Next Steps
- Questions—taken at several points in the presentation



Rule Schedule

October 21, 2011	Proposed NPDES CAFO Reporting Rule published in the Federal Register
October 21, 2011 – December 20, 2011	60-day public comment period
July 13, 2012	Final action on proposal



Rulemaking History

- In 2008, EPA issued revised regulations in response to the *Waterkeeper* decision.
- Subsequently, industry and environmental groups filed petitions for review of the 2008 rule.
- EPA committed in a 2010 settlement agreement with environmental petitioners to propose a rule requiring CAFOs to provide 14 items of facility information to EPA.



Background

- 2008 GAO report:
 - “EPA does not have data on the number and location of CAFOs nationwide and the amount of discharges from these operations.”
- Better data on CAFOs will help EPA to:
 - Assess NPDES program needs;
 - Identify and permit CAFOs that discharge;
 - Conduct education, outreach, compliance assistance or enforcement;
 - Estimate CAFO pollutant loadings—by facility, by watershed, or some other geographical area;
 - Determine potential sources of water quality impairments and take steps to address those impairments



Proposal Overview

- Two options for obtaining basic information from CAFOs:
 - Option 1—All CAFOs submit information
 - Option 2—Only CAFOs in a “focus watershed” submit information
- EPA also requests comment on three alternative approaches to gather information about CAFOs:
 - Use of existing data sources
 - Alternative mechanisms for promoting environmental stewardship and compliance
 - State reporting



Information Requirements: What Information Would CAFOs Need to Submit to EPA?

- CAFOs would provide the following information:
 - Contact information for the CAFO owner OR an authorized representative;
 - Location of the production area by either latitude and longitude OR by a street address;
 - NPDES permit status of the CAFO;
 - Number and type of animals at the CAFO; and
 - Number of acres available for land application.
- EPA proposes to allow authorized representatives to serve as a CAFO's point of contact and to allow the location of the production area to be identified either by latitude and longitude or by a street address to preserve the privacy of a CAFO owner.



Information Requirements: Comment Solicitation

- Section 308(b)(1) of the CWA requires that information collected by the Agency be available to the public, except upon a satisfactory showing to the Administrator that any part of the information, report, or record is confidential business information.
- EPA is aware of both security and privacy concerns regarding the potential public release of the information to be collected by this rule. EPA is soliciting comment on the following:
 - Alternatives to submission of the latitude and longitude that would provide general information on a facility's location but not specific coordinates;
 - Allowing CAFOs to report numbers of animals confined in ranges
 - Appropriate formats or venues to make collect information available to the public



Process/Frequency for CAFOs to Submit Information to EPA

- Process:
 - CAFOs would provide the information to EPA electronically using a web-based system
 - Paper reporting also an option
 - EPA would not mail the survey form to CAFOs. The paper survey form would be available from:
 - Final Rule Federal Register Notice,
 - NPDES program website, or
 - Mailed to the CAFO, upon request, from the EPA's Office of Water in Washington, D.C.
- Frequency:
 - CAFOs with permits: One time only after rule finalization date
 - CAFOs without permits: Update/submit in 10 year intervals



Submission Requirements: Comment Solicitation

- EPA intends to conduct extensive outreach to the CAFO industry to ensure that all CAFOs know of the existence of this rule and any requirement to respond.
- EPA seeks comment on the most effective ways to notify CAFOs, when the rule is finalized, that they must submit information to EPA.



Proposed Option 1:

Who Would Submit?

- All CAFOs
- Exception: If an NPDES-authorized state chooses to respond on behalf of the state's CAFOs
- The state may choose to respond on behalf of the state's CAFOs if:
 - The state submits all of the data items, and
 - The state provides the information to EPA electronically



Proposed Option 1:

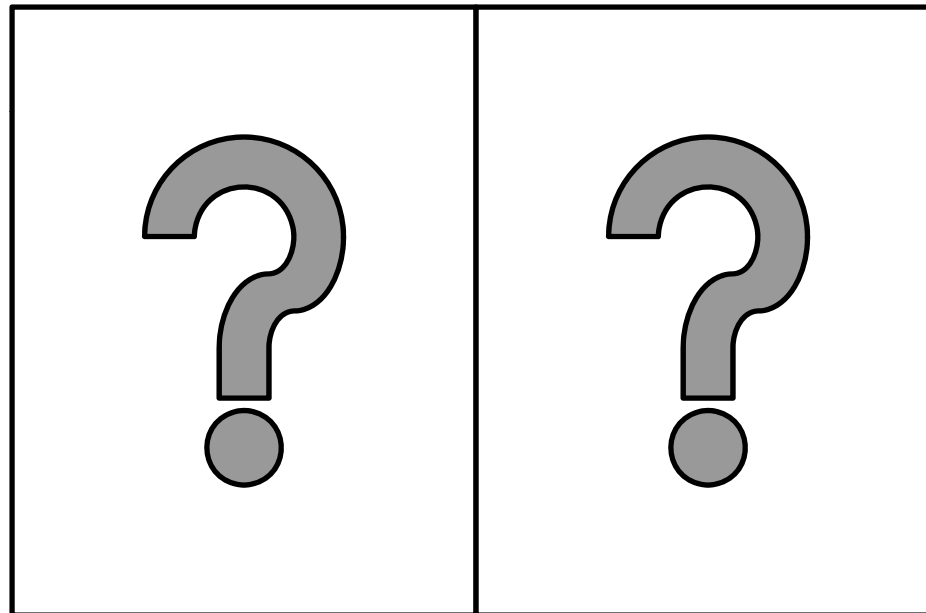
Timeframe

Entity	Timeframe	Activity
States that choose to report	90 days (3 mos.) after rule publication	Must submit information 90 days after rule publication
EPA	150 days (5 mos.) after rule publication	Makes publicly available within 60 days of the end of the state reporting period a list of CAFOs for which the states have submitted data
CAFOs not appearing on the CAFO list	240 days (8 mos.) after rule publication	Must submit information within 90 days of the end of the notification period
CAFOs on the CAFO list that prefer to provide information themselves	240 days (8 mos.) after rule publication	May submit information within 90 days of the end of the notification period



Proposed Option 1:

Questions





Proposed Option 2: Who Would Submit?

- Only those CAFOs in an identified “focus watershed”
- “Focus watershed” determined based on:
 1. Water quality concerns associated with CAFOs (nutrients, sediment, etc.)
AND
 2. One or more of the following criteria:
 - High priority watershed (such as vulnerable ecosystems, drinking water supply source, watersheds with high recreational value or outstanding national resource waters)
 - Vulnerable soil types
 - High density of animal agriculture
 - Other relevant information



Proposed Option 2:

Informing CAFOs of the Need to Submit

- EPA would first explore adequacy of existing data on CAFOs in focus watershed
- In the event existing data on CAFOs are inadequate, EPA would publish a Federal Register (FR) notice describing the focus watershed
- EPA would conduct a range of outreach activities lasting at least 30 days, including:
 - Public meetings,
 - Notices in newspapers, and/or
 - Other local media.



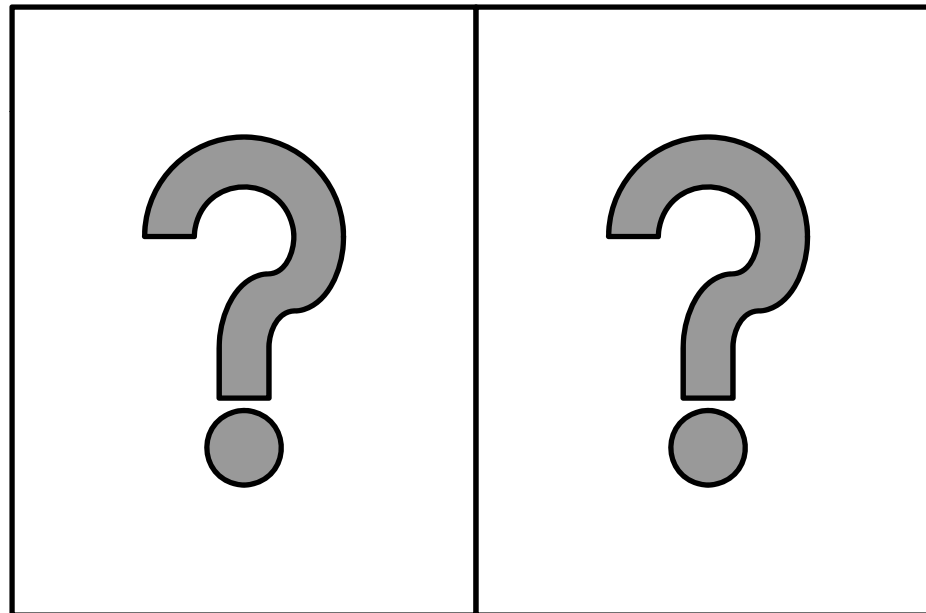
Proposed Option 2:

How Much Time Would CAFOs Have to Respond?

- CAFOs in a focus watershed would have 90 days after EPA conducted its outreach to submit their information.
- The specific deadline for submitting the information would be published in the FR.



Proposed Option 2: Questions





Alternative Approaches

- EPA recognizes that there may be other ways to achieve the proposal's objectives, and the Agency solicits comment on alternative approaches to meet the objectives of the proposal.
- The proposal outlines three alternative approaches, which include:
 - An approach that would obtain data from existing data sources,
 - An approach that would expand EPA's network of compliance assistance and outreach tools, and
 - An approach requiring NPDES authorized states to submit the information as specified by proposed paragraph § 122.23(k)(2) to EPA, which would require rulemaking.



Next Steps

- 60-day public comment period ends 12/20/11
- Continue outreach to interested stakeholders
- Take final action on proposal by July 2012



Questions



For more information about the proposed NPDES CAFO Reporting Rule, visit:

<http://cfpub.epa.gov/npdes/afo/aforule.cfm>